

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE COLUMBIA UNIVERSITY TUITION : Lead Case No. 1:20-cv-03208 (JMF)
REFUND ACTION :
: (ORAL ARGUMENT REQUESTED)
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PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs hereby provide notice of supplemental authority of two new opinions in COVID-19 tuition and fee refund action in relation to Plaintiff's Memorandum in Opposition to Defendant's Motion to Dismiss (Dkt. No. 45). The decisions, both denying Motions to Dismiss, are:

- 1.) *McDermott v. The Ohio State University*, Case No. 2020-00286JD (Ohio Ct.Cl., Aug. 24, 2020), attached hereto as Exhibit 1;
- 2.) *Mellowitz v. Ball State University and Board of Trustees of Ball State University*, Case No. 49D14-2005-PL-015026 (Marion Sup. Ct., Aug. 14, 2020) attached as Exhibit 2.

Plaintiffs are also providing additional filings related to the Motion to Dismiss in the *Mellowitz* action as the Order in that case is not detailed with regard to the basis for the motion to dismiss or arguments made in support and opposition thereto. Those additional filings are:

- 3.) *Mellowitz* Complaint as Exhibit 3;
- 4.) *Mellowitz* Motion to Dismiss as Exhibit 4;
- 5.) *Mellowitz* Memorandum in Support of Motion to Dismiss as Exhibit 5;
- 6.) *Mellowitz* Response in Opposition to Motion to Dismiss as Exhibit 6;
- 7.) *Mellowitz* Reply in Support of Motion to Dismiss at Exhibit 7.

The McDermott Plaintiff sued the Ohio State University for breach of contract and unjust enrichment due to the University's refusal to give pro-rated refunds of fees as part of its response to the COVID-19 pandemic. Defendant's motion was denied in its entirety for reasons that make

dismissal of Plaintiff's Consolidated Amended Class Action Complaint in this case inappropriate as well.

Likewise, the Mellowitz Plaintiff brought a putative class action asserting claims of breach of contract and unjust enrichment on similar facts.

Plaintiffs respectfully suggest that these decisions further support their position, in opposition to the Defendant's Motion to Dismiss.

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